

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

JANICE CHILDERS,)	
)	
Plaintiff,)	
)	
v.)	No. 1:18-cv-03984-JPH-TAB
)	
ST. VINCENT HEART CENTER OF)	
INDIANA, LLC)	
d/b/a THE HEART CENTER OF)	
INDIANA, LLC,)	
)	
Defendant.)	

ORDER GRANTING DEFENDANT'S BILL OF COSTS

Plaintiff, Janice Childers, filed this action in state court. Dkt. 1. On December 18, 2018, Defendant, St. Vincent, removed the case to this Court, and on January 14, 2021, this Court granted St. Vincent's summary judgment motion as to Plaintiff's federal claims and declined to exercise supplemental jurisdiction over the state law claims. Dkt. 77. On January 28, 2021, Defendant filed its Bill of Costs. Dkt. [79]. Plaintiff objects, arguing that St. Vincent is not a prevailing party. Dkt. 80. For the reasons below, Defendant's Motion for Bill of Costs is **GRANTED**. Dkt. [79].

**I.
Applicable Law**

Federal Rule of Civil Procedure 54(d) provides that "[u]nless a federal statute, these rules, or a court order provides otherwise, costs—other than attorney's fees—are to be allowed to the prevailing party." "Under Rule 54(d), district courts enjoy wide discretion in determining and awarding reasonable

costs." *Northbrook Excess and Surplus Insurance Co., v. Proctor & Gamble Co.*, 924 F.2d 633, 642 (7th Cir. 1991).

II. Discussion

St. Vincent seeks payment of \$2,610.22 to reimburse its cost of (1) taking Ms. Childers' deposition (specifically court reporter attendance and/or obtaining the transcript); (2) defending witness Janice King's deposition (specifically obtaining the transcript); (3) obtaining copies of medical records concerning Ms. Childers' medical condition as it related to her disability claim; and (4) removing Ms. Childers' federal claims to this Court. Dkt. 79-1 at 2. Ms. Childers objects to the Bill of Costs on the grounds that St. Vincent is not a prevailing party because it did not prevail in total. Dkt. 80.

"[C]osts other than attorneys' fees shall be allowed as of course to the prevailing party unless the court otherwise directs." *Ogborn v. United Food and Commercial Workers Union, Local No. 881*, 305 F.3d 763, 769 (7th Cir. 2002) (quoting Fed. R. Civ. P. 54(d)(1)). The Seventh Circuit has defined "prevailing party" as "the party who prevails as to a substantial part of the litigation." *Testa v. Vill of Mundelein, Ill.*, 89 F.3d 443, 447 (7th Cir. 1996).

On January 14, 2021, this Court granted St. Vincent summary judgment on each of Ms. Childers' federal claims and declined to exercise supplemental jurisdiction over her state-law claims. That resolution made St. Vincent the prevailing party, even though this Court remanded the state law claims. See *Ogborn*, 305 F.3d at 770.

Furthermore, while Ms. Childers argues that any costs beyond the transfer fee of \$400.00 should only be allowed at a one-third rate, dkt. 80 at 1, she does not provide any authority stating that costs should be prorated based on the number of federal and state claims asserted. Even so, "[f]or the purposes of Rule 54, a party is deemed 'prevailing' if it prevails as to a substantial part of the litigation." *Baker v. Lindgren*, 856 F.3d 498, 502 (7th Cir. 2017) (quoting *Testa*, 89 F.3d at 447).

Because St. Vincent is the prevailing party, and because its costs are authorized by statute and reasonable and necessary to the litigation, St. Vincent's Bill of Costs is **GRANTED**. See *Ogborn*, 305 F.3d at 770; see also *Little v. Mitsubishi Motors North America, Inc.*, 514 F.3d 699, 702 (7th Cir. 2008).

III. Conclusion

Ms. Childers' objection to St. Vincent's Bill of Costs is **OVERRULED**. St. Vincent's Bill of Costs, dkt. [79], is **GRANTED**, and it is awarded costs in the sum of \$2,610.22.

SO ORDERED.

Date: 3/19/2021

James Patrick Hanlon
James Patrick Hanlon
United States District Judge
Southern District of Indiana

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